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17 UNITED STATES DISTRICT COURT

18 FOR THE CENTRAL DISTRICT OF CALIFORNIA

19 UNITED STATES OF AMERICA,
20 Plaintiff,
21 v.
22 JASON EDWARD THOMAS CARDIFF,
23 Defendant.

No. 23-CR-00021-JGB

GOVERNMENT'S MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT OF
REQUEST FOR PRETRIAL DETENTION;
EXHIBITS

24
25 Plaintiff United States of America, by and through undersigned
26 counsel, submits this brief in support of its notice of request for
27 detention of the defendant, Jason Edward Thomas Cardiff, pending
28 trial pursuant to 18 U.S.C. § 3142(e).

1 Dated: November 29, 2023

Respectfully submitted,

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5 /s/

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MEMORANDUM OF POINTS AND AUTHORITIES**I. INTRODUCTION**

The government respectfully requests that the Court order defendant Jason Edward Thomas Cardiff ("defendant") detained pending trial in these matters.

Redwood Scientific Technologies, Inc. ("Redwood") is a Delaware corporation with its corporate headquarters located in Upland, California. Redwood sold various products to consumers, including thin film strips marketed as homeopathic remedies causing weight loss, male sexual enhancement, and smoking cessation. Defendant served as Redwood's Chairman of the Board of Directors, Chief Executive Officer, and President.

As alleged in the Indictment, during approximately January 2018 through May 2018, the defendant ordered his employees to participate in a scheme that defrauded consumers out of hundreds of thousands of dollars. Specifically, the defendant engaged in a scheme to charge prior one-time single-purchase customers and place them on periodic continuity sales plans without their authorization or consent. During this scheme to defraud, the defendant also ordered the deletion and destruction of documents that Redwood had been ordered to produce as a part of a Federal Trade Commission ("FTC") investigation.

The FTC investigation uncovered numerous consumer complaints related to Redwood's sales practices and led to a civil enforcement suit in this district in *FTC v. Cardiff, et al.*, Case No. 5:18-cv-02104-DMG-PLA.¹ In March 2022, the Court issued a permanent

¹ The case was originally assigned to Hon. James V. Otero, and then re-assigned to Hon. Dolly M. Gee.

1 injunction against Redwood after finding that the FTC prevailed on
2 all 16 counts in its complaint against defendant, his wife, and
3 Redwood. [Dkt. 706].

4 Shortly after the FTC litigation ended in early 2022, the
5 defendant sold his residence in the United States and moved to
6 Ireland, where he maintains dual citizenship. His wife and daughter
7 moved with him and are currently residing in Ireland.

8 On January 31, 2023, a federal grand jury returned an Indictment
9 against the defendant that charged him with one count of access
10 device fraud, in violation of 18 U.S.C. § 1029(a)(5), one count of
11 aggravated identity theft, in violation of 18 U.S.C. § 1028A(a)(1),
12 and two counts of witness tampering, in violation of 18 U.S.C. §
13 1512(b)(2)(B). [Dkt. #1]. The Court issued an arrest warrant for the
14 defendant the same day.

15 On November 26, 2023, U.S. Customs and Border Protection
16 officers arrested defendant at LAX Airport after defendant returned
17 to the United States from Ireland, via London, United Kingdom.
18 Defendant made his initial appearance on November 27, 2023. [Dkt.
19 #7].

20 As discussed more fully below, the defendant poses a substantial
21 risk of flight and a danger to the community, and the government
22 argues there are no release conditions that can reasonably ensure his
23 appearance on the charges in this case.

24 **II. LEGAL STANDARD & ARGUMENT**

25 The Bail Reform Act of 1984 permits pretrial detention of a
26 defendant without bail where "no condition or combination of
27 conditions will reasonably assure the appearance of the person as
28 required and the safety of any other person and the community." 18

1 U.S.C. § 3142(e). Detention is appropriate where a defendant is
2 either a danger to the community or a flight risk; it is not
3 necessary to prove both. *United States v. Motamedi*, 767 F.2d 1403,
4 1406 (9th Cir. 1985). A finding that a defendant is a flight risk
5 need only be supported by a preponderance of the evidence. *Id.* A
6 finding that a defendant is a danger to the community must be
7 supported by clear and convincing evidence. 18 U.S.C. §3142(f).

8 Danger to the community may include "pecuniary or economic
9 harm." *United States v. Reynolds*, 956 F.2d 192 (9th Cir. 1992). To
10 determine whether conditions can reasonably assure defendant's
11 appearance and the safety of the community, the Court considers: (1)
12 the nature and circumstances of the offenses; (2) the weight of the
13 evidence against the person; (3) the history and characteristics of
14 the person; and (4) the nature and seriousness of the danger to any
15 person or the community that would be posed by the person's release.
16 18 U.S.C. § 3142(g). With the defendant, these factors support
17 findings by the Court that no condition or combination of conditions
18 will reasonably assure the appearance of the defendant as required or
19 the safety of the community.

20 The government proffers the following evidence in support of its
21 request for detention and if needed, will call United States Postal
22 Inspection Service Inspector Christine Reins-Jardin to testify.

23 **A. The Offenses and Evidence Against Defendant**

24 The nature and circumstances of the offenses in this case are
25 serious. In counts 1 and 2, the defendant caused hundreds of
26 thousands of dollars in losses to thousands of victims across the
27 United States over a period of just a few months. When defendant
28 found his company under investigation, defendant then caused it to

1 fail to comply with a civil investigative demand issued by the FTC,
2 requiring Hon. James S. Otero to hold contempt proceedings in July
3 and August 2019. *FTC v. Jason Cardiff, et al.*, No. 5:18-cv-2104-DMG,
4 Docket Nos. 181, 182, 183, 212. Not to be deterred by the Court's
5 orders in the civil case, and rather than produce documents to the
6 FTC, defendant instructed at least two employees to destroy them,
7 which serves as the basis for counts 3 and 4 of the Indictment.

8 Additionally, the weight of the government's evidence against
9 the defendant is strong, including inculpatory emails written by the
10 defendant and his employees in perpetrating this scheme to defraud
11 former customers, financial data from Redwood's payment processors
12 and customer relationship management system, and statements from
13 former employees regarding the defendant's orders to destroy relevant
14 documents.

15 Finally, the government's evidence against defendant has already
16 been tested and found to be persuasive within the civil matter, as
17 seen with the Court's ultimate findings against defendant. On March
18 1, 2022, the Court granted summary judgement in favor of the FTC when
19 the Court found defendant violated sixteen counts of the FTC Act,
20 which included counts related to the charged conduct. See Exhibits A
21 and B, attached herein. Among a plethora of other deceptive conduct,
22 the Court found that defendant had violated the FTC Act "by causing
23 charges to be submitted for payment to consumers' credit and debit
24 cards without the express informed consent of those consumers."
25 Exhibit B, at 4:6-9. Thus, an independent factfinder has already
26 assessed the evidence—albeit at a lower civil standard—and found it
27 persuasive.

1 **B. Defendant's History & Characteristics**

2 Defendant has a proven history of deception and dishonesty in
3 the representations he made to the Court and shown that he cannot
4 follow court orders. Specifically, Judge Otero found that defendant
5 obtained a second Irish passport after the Court had seized his first
6 one during the FTC litigation. See Exhibit C, 389:7-14. There, the
7 Court ordered defendant held overnight while the second passport was
8 located and secured. *Id.* at 341:1-7. Separately, the Court found that
9 the defendant continuously lied to the court-appointed receiver about
10 his assets and concealed his income and assets from the court. *Id.* at
11 391:2-6. During a contempt hearing on July 31, 2019, the Court
12 stated, "I would say of the 16 years I've been on the federal court,
13 I've never presided over a matter where the fraud committed by the
14 defendants was so clear, the deception so extreme. I'm astounded."
15 *Id.* at 389:3-6.

16 In addition, the Court stated, "I've heard carefully from the
17 Cardiffs. Their stories are totally unbelievable. It's pretty clear
18 to the Court that they've lied, that they worked in concert with each
19 other and with others to avoid, violate the conditions of the orders
20 of the Court." *Id.* at 390:3-7.

21 Given the defendant's history and complete disregard for prior
22 orders issued by the Court, the defendant is unlikely to adhere to
23 conditions imposed by this Court if released.

24 **C. Defendant's Risk of Flight**

25 The defendant poses a significant risk of flight for multiple
26 reasons.

27 First, the defendant's current ties to the United States are
28 tenuous at best. The defendant has no residence within the United

1 States. As mentioned above, shortly after the conclusion of the FTC
2 civil matter, the defendant sold his home in California and moved to
3 Ireland with his wife and daughter, where all currently reside. The
4 defendant has not returned to the United States since he left in
5 early 2022 and maintains dual U.S. and Irish citizenship. Also as
6 discussed above, the Court found that the defendant tried to flee and
7 held the defendant in contempt for obtaining a second Irish passport
8 after the Court had seized his first. Specifically, Judge Otero
9 stated, "Let's get the marshals up. The Court has significant concern
10 that Mr. Cardiff is attempting to flee the jurisdiction of the Court.
11 He'll be placed in custody." See Exhibit C, 154:9-12.

12 Second, the defendant allegedly possesses significant assets and
13 likely has the means to flee from prosecution. The defendant
14 routinely flaunts wealth by posting pictures and making statements
15 about it on social media. See Exhibit D. Unexplained is why defendant
16 has not offered any collateral as bond for himself.

17 In contrast, defendant's company, Redwood, recently filed a
18 Registration Statement with the Securities and Exchange Commission,
19 wherein it stated that its "operations have been largely funded by
20 [defendant](our CEO and majority stockholder) and his affiliates,
21 which funding is treated as contributions to capital." See Exhibit E.
22 Defendant signed the statement. Redwood also

23 requires approximately \$350,000 per month on an annualized
24 basis for operating expenses to fund the costs associated
25 with our financing activities, legal and accounting
26 expenses, other general and administrative expenses,
27 research and development, regulatory compliance, product
28 development and maintenance, third party manufacturing
fees, and compensation of executive management and our
employees. Based on our current cash position, without
additional financing we may not be able to pay our
obligations past the fourth quarter of fiscal 2023.

1 Redwood also noted in the Registration Statement the following:

2 As described in the report of our auditors for the years
3 ended December 31, 2022 and 2021 and the notes to our
4 financial statements, there is substantial doubt about our
5 ability to continue as a going concern, and if we are
6 unable to continue, you may lose your entire investment.

7 The uncertainty about our ability to continue in operation
8 is based on our continuing losses from operation, limited
9 revenue and limited working capital, among other things
10 which existed as of year-end December 31, 2022 and December
11 31, 2021. As of December 31, 2022, we had a cash balance of
12 \$0, working capital of \$0 and an accumulated deficit of
13 \$5,275,421.

14 Redwood also stated that year end operating expenses for 2022
15 totaled \$143,713, which is also the company's net loss. For 2021,
16 Redwood noted that it was under receivership (in conjunction with the
17 FTC litigation), and did not have any revenue or expenses, but did
18 have a deficit of over \$5 million. No compensation was paid to
19 defendant in 2021 and 2022. However, according to defendant, Redwood
20 has commenced clinical trials of its products in Chicago, Illinois
21 and approximate the cost as \$1.25 million, the source of which is
22 unknown. As such, there is substantial doubt that defendant is
23 generating any income from his job as CEO, yet broadcasting on social
24 media that he is wealthy and successful. Defendant cannot have it
25 both ways. Even if the Court were to grant defendant bond, defendant
26 is required to maintain active employment.

27 Third, the defendant left the United States and resided in
28 Ireland in an attempt to avoid arrest on criminal charges. On
November 26, 2023, USPIIS Postal Inspectors went to LAX to arrest
defendant after he was detained by United States Custom and Border
Protection agents pursuant to the instant arrest warrant. After
being advised of his *Miranda* rights and the charges against him, the
defendant told arresting agents that the FTC shut down his business

1 in 2018, so the five year statute of limitations would have passed
2 for any charges. Defendant stated that he won a hearing against the
3 FTC, so he was now being charged criminally because the FTC is mad
4 about losing.

5 Further, defendant's latest trip to the United States was likely
6 planned to be a short one. He was arrested with \$7,000 in cash on
7 hand and with two carry-ons of luggage. He told the arresting agents
8 that he was in Los Angeles to visit his 96-year-old father, who is
9 ill. The arresting agents also asked him if anyone in Los Angeles
10 was expecting him so they could contact them on his behalf and
11 defendant stated there was not. These facts, taken together, further
12 strengthen that defendant 1) has no ties to this district; and 2) was
13 returning to the United States for a brief visit with his ill elderly
14 father and return to Ireland.

15 Fourth, the defendant faces a significant prison sentence if
16 convicted - including a two-year mandatory minimum for the aggravated
17 identity theft charge. The Ninth Circuit permits the district court,
18 in assessing the risk that a defendant will fail to appear, to
19 consider possible punishment as an incentive for a defendant to flee.
20 *United States v. Townsend*, 897 F.2d 989, 995 (9th Cir. 1990). Here,
21 the potential punishment defendant faces on these charges creates a
22 strong incentive to flee, particularly for a person who has not
23 previously served any significant time in prison.

24 The defendant has little connecting him to the district and
25 every reason to flee the country, especially with his wife and child
26 located overseas and looking at a potentially long sentence, if
27 convicted. His conduct in his FTC litigation demonstrated a
28 successive disregard for court orders. Accordingly, the government

1 submits that a preponderance of the evidence shows that defendant
2 should be detained as a flight risk.

3 **D. Defendant's Danger to the Community**

4 The defendant also poses a danger to the community which cannot
5 be mitigated by any conditions which the Court could impose. As
6 noted, the defendant has repeatedly demonstrated a complete disregard
7 of the law. As the Indictment alleges, the defendant is charged with
8 two counts of witness tampering wherein he directed two former
9 employees to destroy documents relevant to the FTC's Civil
10 Investigative Demand in the civil matter. The government has string
11 and legitimate concerns that if the defendant were released, he would
12 contact witnesses who are the subject of the tampering charges now
13 that he is aware that he is indicted.

14 **III. CONCLUSION**

15 For the foregoing reasons, the United States respectfully
16 requests that the Court order the defendant be detained pending
17 trial. There is no condition or combination of conditions of release
18 that will assure that defendant will not flee or pose a danger to the
19 safety of any other person or the community. Simply, defendant is
20 unlikely to abide by any condition or combination of conditions of
21 his release.